

REMARKS

Claims 73-91 and 94-100 were pending in the present application. This Amendment follows a personal interview held August 16, 2005 between Applicants' undersigned attorney, Patrick T. Skacel, and Examiner Lucas. The courtesies extended Applicants' attorney during the interview are sincerely appreciated. The remarks presented herein make of record and further address the issues discussed during the interview. By this Amendment, Applicants have amended claims 73, 79, and 95. Support for the claim amendments can be found in the specification and claims as originally filed. Specifically, support can be found, *inter alia*, at page 15, lines 6-8 and at pages 28-29 in the specification. The present Amendment does not introduce any new matter, and thus, its entry is respectfully requested. Upon entry of the present Amendment, claims 73-91 and 94-100, as amended, will remain pending and under examination.

March 23, 2005 Office Action

Examiner's Claim Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 73-91 and 94-100 under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The Examiner's position essentially appears to be that the claims that do not specifically recite the presence of metal electrodes are not enabled because they in fact encompass crystals lacking such electrodes, which electrodes are necessary for the immunodiagnostic test to be performed.

In response, without conceding the correctness of the Examiner's position, but to expedite allowance of the subject application, applicants have amended claims 72 and 95 to recite “. . . a piezoelectric (Pz) crystal comprising an electrode, on which crystal is immobilized an antigen” Applicants believe that this amendment fully overcomes the Examiner's concerns and that the claims as amended are fully enabled. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph.

Examiner's Claim Rejections Under 35 U.S.C. § 1 03

The Examiner maintained the previously set forth rejections of the claims as obvious under 35 U.S.C. §103 in light of various references already of record. The Examiner continued to contend that re-using a crystal after having obtained a positive result in a test renders obvious a crystal's reuse after a negative test result. Specifically, the Examiner has taken the position that because the art teaches re-use of crystals after a *positive* result is obtained, the re-use being possible after merely a washing step to disrupt the antigen-antibody complex on the surface, one of ordinary skill in the art would readily recognize that reuse after a *negative* result would be obvious.

In response, without conceding the correctness of the Examiner's position, but to expedite allowance of the subject application, Applicants have amended the claims to clarify that the re-use after a negative sample can be achieved without the kind of washing steps necessary to clean a crystal that has been used to obtain a positive result. Applicants note that this feature is not

taught or suggested in any of the art thus far cited by the Examiner, and thus, the claims, as amended, are not obvious over the art of record.

Moreover, Applicants are presently in the process of preparing a Rule 132 Declaration providing that one of skill in the art would not find re-use after a negative result to be obvious in light of the cited references and the general knowledge in the art, in that such re-use after obtaining a negative result, without the need for additional washing steps of the type required to decontaminate a crystal following a positive result, would not be reasonably expected by one of ordinary skill in the art to be successful. Applicants will submit the noted Declaration in a Supplemental response as soon as such Declaration is available. Applicants believe that the amendments presented herein, to be further supported by the anticipated Declaration, fully overcome the Examiner's concerns. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §103.

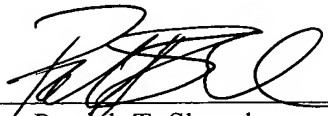
The August 16, 2005 Personal Interview

As reflected in the Interview Summary prepared by the Examiner, Applicants' undersigned attorney and the Examiner discussed the outstanding obviousness and enablement rejections and generally how such rejections might be successfully overcome. In that regard, Applicants believe that the present Amendment, to be additionally supported with the anticipated submission of a Rule 132 Declaration, fully addresses the issues discussed during the interview and should be sufficient to overcome the outstanding rejections.

In view of the above remarks and claim amendments, Applicants believe that the Examiner's rejections set forth in the March 23, 2005 Office Action and discussed at the August 16, 2005 interview, have been fully addressed and that the present claims fully satisfy the patent statutes. Applicants therefore believe that the application is in condition for allowance. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

September 23, 2005

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